

REMARKS / DISCUSSION OF ISSUES

Claims 1-22 are pending in the application. No amendments are made to the claims in the present Reply.

Request for In-Person Interview

Applicants' representative respectfully requests an in-person interview with the Examiner and his SPE before further action is taken in the present application. While the undersigned will attempt to arrange this interview, in the event that this does not occur before review of the present Reply is undertaken, Applicants request the Examiner contact the undersigned to arrange the interview. The undersigned greatly appreciates this consideration in advance.

Request for Clarification

Applicants respectfully request clarification as to the following issues noticed upon review of the present Office Action:

1. The Office Action indicates that it is in response to the response filed on July 25, 2008. Naturally, the year is understood to be incorrect as this is more than three months after the date of the present Office Action; and Applicants understand this to be a mere typographical error. However, there was no response filed on July 25, 2007. There was a Reply filed to the Office Action of July 25, 2007 and it is believed that the filing date of the Reply should have been referenced.
2. Applicants traversed the rejection under section 101 of the Code in the previous response. While this rejection is not reiterated, it is also not explicitly withdrawn. Applicants surmise that the rejection's not being restated is tantamount to its being withdrawn; but respectfully request confirmation.

3. The rejection of claim 21 is asserted to be based on new grounds. Yet, while captioned under the rejections for obviousness, there seems to be no difference between the previous rejection of claim 21 as being anticipated; no reliance on the secondary reference to *Unger, et al.*; and no assertion of obviousness. Applicants respectfully request clarification.

Rejections under 35 U.S.C. § 102

Claims 1,2, 4-9,11, 13-18 and 20-22¹ are rejected under 35 U.S.C. § 102(b) as being allegedly anticipated by *Zintel, et al.* Applicants respectfully submit that the rejection is improper and should be withdrawn.

Applicants rely at least on the following standards with regard to proper rejections under 35 U.S.C. § 102. Notably, a proper rejection of a claim under 35 U.S.C. § 102 requires that a single prior art reference disclose each element of the claim. *See, e.g., W.L. Gore & Assoc., Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303, 313 (Fed. Cir. 1983). Anticipation requires that each and every element of the claimed invention be disclosed in a single prior art reference. *See, e.g., In re Paulsen*, 30 F.3d 1475, 31 USPQ2d 1671 (Fed. Cir. 1994); *In re Spada*, 911 F.2d 705, 15 USPQ2d 1655 (Fed. Cir. 1990). Alternatively, anticipation requires that each and every element of the claimed invention be embodied in a single prior art device or practice. *See, e.g., Minnesota Min. & Mfg. Co. v. Johnson & Johnson Orthopaedics, Inc.*, 976 F.2d 1559, 24 USPQ2d 1321 (Fed. Cir. 1992). For anticipation, there must be no difference between the claimed invention and the reference disclosure, as viewed by a person of ordinary skill in the field of the invention. *See, e.g., Scripps Clinic & Res. Found. v. Genentech, Inc.*, 927 F.2d 1565, 18 USPQ2d 1001 (Fed. Cir. 1991).

¹ The Office Action indicates that claim 21 is rejected on new grounds, yet the rejection for anticipation lists claim 21 as being rejected thereunder. This appears to be a typographical error, but clarification is requested. Moreover, like claim 21, claim 22 is not substantively discussed in this portion of the Office Action, but rather in the rejection for obviousness. Clarification is requested.

i. Claims 1, 8, 9, 11 and 15

Claim 1 recites:

A method of operation of a networked device in a network having at least one other device, the method including:
sending a simple device description query message to at least one other device
requesting a simple device description;
receiving from the other device a simple device description message of defined length
including a device type value representing the type of the other device;
sending an extended device description query message to the other device requesting an
extended device description from the other device; and
receiving from the other device an extended device description of variable length.

Claim 8 recites:

A method of operation of a networked device, including:
receiving a simple device description query message from at least one other
device requesting a simple device description;
sending to the other device a simple device description message of defined length
including a device type value representing the type of the networked device;
receiving an extended device description query message from the other device
requesting an extended device description from the networked device; and
sending to the other device an extended device description of variable length.

As will be appreciated, claim 8 includes subject matter similar to that of claim 1.

In order to shed greater light on the distinction between the claims under examination and the applied art, Applicants direct attention to an embodiment described beginning at paragraph [0006] of the filed application. To wit:

Such a system implements the protocol that is the subject of this patent application. The protocol itself will be referred to as home uniform control language (HUCL).

[0007] In comparison, those prior art systems of which the inventors are aware implement only a single device description message and response. By providing a simple device description of defined length and an extended device description of variable length the invention makes it possible to combine using the HUCL protocol simple devices operating only using the simple messages and complex devices which make use of the greater functionality available from the extended device description of variable length. Simple devices may simply ignore extended device description queries.

The Office Action directs Applicants to the Abstract and to paragraph [009] of *Zintel, et al.* for the alleged disclosure of the noted features of claims 1 and 8. for the alleged disclosure of the sending of a simple device description query message to the at least one other device. However, there is only the disclosure of the learning more about a device by an entity by retrieving the device's description. Specifically, there is no disclosure in the Abstract as alleged of a query to the at least one other device, but rather only the receipt of the device's description.

In addition, Applicants note that both a simple device description query and an extended device description query are sent according to the method. The method includes receiving both a simple device description and an extended device description. Thus two distinct queries are sent and two distinct descriptions are received. However, the Office Action relies on one and the same aspect of the Abstract to meet both the transmitting of the query of both the simple and extended. Assuming arguendo that the reference discloses that any query message is sent, there is no disclosure of sending a simple device description query and an extended device description query; and the same disclosed subject matter of the Abstract cannot properly suffice for both as the Examiner alleges. Finally, a word search of the term 'extended' in context, reveals only the term 'extended error information' and not an extended device description as claimed. (Applicants note that the applied reference includes 46 pages of text and 51 drawings Figs. As such, Applicants focus their rebuttal mostly in direct reply to the alleged disclosure of elements as specified in the Office Action.)

At page 2, the Office Action states:

“The examiner disagrees, Zintel teaches features taught in claims 1 and 8. Zintel teaches sending (104) a simple device description query message to at least one other device requesting a simple device description, and sending (108) an extended device description query message to the other device requesting an extended device description query message to the other device requesting an extended device description from the other device...”

First, it is noted that the reference character 104 refers to a user control point, which is a communications initiator. While there is disclosure of the use of the SSDP (Simple Service Device Protocol), the Office Action fails to direct Applicants to the alleged disclosure of its relation to USP 104, and specifically to the sending of the simple device description query and its receipt at another device.

Second, there is no reference character 108 disclosed in *Zintel, et al.*, which leaves Applicants in the precarious position of having to determine that which the Examiner considers to be the sending of an extended device description query in the applied art. Once again, Applicants respectfully submit that the Office Action fails to comply with MPEP § 706. Moreover, Applicants submit that the Office Action fails to comply with 37 C.F.R. § 1.104(c)(2) because the particular part relied on has not been designated as nearly as practicable. Rather, the rejection cites reference characters not found in the applied art, which adds to confuse not to clarify.

Finally, nowhere in the Abstract or in paragraph [009] of the *Zintel, et al.* is there a disclosure of sending and receiving both simple and extended device descriptions. The Examiner states that the phrase “**Following discovery of a UPnP device, an entity can learn more about the device in Zintel means extended devices description query message, (Abstract & Paragraph 0009]**” (Emphasis in original). Applicants demur the position taken for at least the following reasons:

1. The Examiner asserts that meaning of a term in the applied art without any basis whatsoever in extrinsic evidence. Applicants submit a claim rejection must be based on objective evidence of record, and cannot be supported merely on subjective belief and unknown authority. See, e.g., M.P.E.P. § 2144.03; In re Lee, 277 F.3d at 1344-45, 61 USPQ2d at 1434-35 (Fed. Cir. 2002); In re Zerk, 258 F.3d at 1386, 59

USPQ2d at 1697.

No such concrete evidence has been provided by the Examiner here, nor did the Examiner submit an affidavit as required by 37 C.F.R. § 1.104(d)(2) if this proposed motive were based on facts within his personal knowledge (see M.P.E.P. § 2144.03). Applicants respectfully request that such an affidavit be provided if a rejection continues to be made without a citation of any objective evidence.

2. Paragraph [009] of *Zintel, et al.* discloses that a UPnP device makes itself known and available for network communication; and following its discovery of the UPnP device, an entity can learn more about the device, inter alia, by retrieving the device's description from a URL provided by the device in an initial discovery message. Even assuming arguendo that the initial discovery message was an extended device description query, there is no disclosure of the request therefore. Stated somewhat differently, the device unilaterally sends the initial discovery message, but there is no request for this information. Moreover, there is nothing that would lead one to believe that the initial discovery description is an extended device description.

For at least the reasons set forth above, Applicants respectfully submit that the applied art as relied upon in the Office Action fails to disclose at least one feature of each of claims 1 and 8. Therefore claims 1 and 8 are patentable over the applied art. Moreover, claims 2-7, which depend from claim 1, are patentable for at least the same reasons.

a. Claims 9, 11 and 15

Claims 9, 11 are drawn to networked devices and claim 15 is drawn to a system. Each claim includes features similar to those of claim 1, and particularly of the sending of both simple and extended device description queries and the receiving of both simple and extended device descriptions. The Office Action applies *Zintel, et al.* in substantially the same manner. Therefore, Applicants respectfully submit that the applied art as relied upon in the Office Action fails to disclose at least one feature of each of claims 9, 11 and 15. Accordingly, claims 9, 11 and 15 are patentable over the applied art. Moreover,

claims 10, 12-14 and 16-18, which depend from respectively from claims 9, 11 and 15 are patentable for at least the same reasons.

Rejections under 35 U.S.C. § 103

Claims 3, 10, 12, 21 and 22 are rejected under 35 U.S.C. § 10(a) as being unpatentable in view of *Zintel, et al.* and *Unger, et al.* (US Patent 6,005,759). Claims 3, 10 and 12 depend either immediately or ultimately from claims 1 and 9, respectively. While Applicants by no means concede the propriety of the rejection for obviousness, claims 3, 10 and 12 are submitted as being allowable at least because of their dependence on independent claims that are believed allowable for at least the reasons set forth above. Withdrawal of the rejection of claims 3, 10 and 12 is earnestly solicited. Moreover, claim 21 is patentable for at least the reasons set forth below; and as such, claim 22 is patentable for at least the same reasons.

i. Claim 21

Claim recites:

A network establishment and management protocol for controlling electronic devices, the protocol being recorded on a record medium, the protocol comprising:
a compression algorithm defining the mechanism for compression of said messages a definition of a generic message format, the messages being compressed XML compliant messages; and
a definition of message sequencing requirements.

At the outset, and as Applicants noted above the rejection of claim 21 is asserted to be based on new grounds. Yet, while captioned under the rejection for obviousness, there seems to be no difference between the previous rejection of claim 21; no reliance on the secondary reference to *Unger, et al.*; and no assertion of obviousness.

The above notwithstanding, Applicants note that like a rejection for anticipation, a rejection for obviousness requires, inter alia, the disclosure of all features of a claim be

disclosed in the applied art. Applicants submit that the Office Action has not established that all features are so disclosed.

The Office Action directs Applicants to paragraph [010] of *Zintel, et al.*:
the protocol comprising: a compression algorithm (210) defining the mechanism for compression of said messages a definition (200) of a generic message format, the messages being compressed XML compliant messages, [The description is expressed in XML and includes vendor-specific manufacturer information like the model name and number, serial number, manufacturer name, URLs to vendor-specific Web sites, etc. The description also includes a list of any embedded devices or services, as well as URLs for control, eventing, and presentation, (Paragraph 0010)];

Applicants cannot garner the relation of the disclosure of *Zintel, et al.* relied upon in the Office Action to the subject matter claimed in claim 21. Specifically, there is no description of a compression algorithm defining the mechanism for compression as specifically claimed. As such, Applicants respectfully submit that a *prima facie* case of anticipation has not been established as to claim 21. Thus claim 21 and claim 22, which depends from claim 21, are patentable over the applied art.

Conclusion

In view the foregoing, applicant(s) respectfully request(s) that the Examiner withdraw the objection(s) and/or rejection(s) of record, allow all the pending claims, and find the application in condition for allowance.

If any points remain in issue that may best be resolved through a personal or telephonic interview, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

Respectfully submitted on behalf of:
Phillips Electronics North America Corp.

/s/William S. Francos/

by: William S. Francos (Reg. No. 38,456)

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